

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)

) MUR 5799

Senator John McCain

)

CERTIFICATION

I, Darlene Harris, recording secretary for the Federal Election Commission executive session on April 10, 2007, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 5799:

1. Find reason to believe that Senator John McCain violated 2 U.S.C. § 441i(e) and 11 CFR § 300.62.

2.

3. Approve the Factual and Legal Analysis, as recommended in the General Counsel's Report dated April 3, 2007; subject to the following revisions:

Replace the text which begins at Attachment 5, Page 7, Line 11, after the "*See id.*" citation, and concludes at Attachment 5, Page 8, at the end of Line 7, with the following language:

"In addition, although the solicitation sought specific amounts only up to \$1,000, it also included an 'other' space, constituting a failure to limit the solicitation to federally-permissible amounts. While the solicitation also included a disclaimer indicating that 'Senator McCain is not soliciting individual contributions in excess of \$2,100, nor is he soliciting corporate, labor union or foreign national contributions,' this disclaimer failed to limit the *entire* solicitation to Federally-permissible funds. *See supra*, pp. 3-7. Furthermore, the next sentence advised solicitees that 'South Carolina state law allows campaign contributions of up to \$3,500 per election cycle,' implying that contributors could exceed the Federal contribution limit. A Federal officeholder may not inculcate a solicitation of non-Federal funds by 'reciting a rote limitation, but then encouraging the potential donor to disregard the limitation.' *See* AO 2003-03. It therefore violated BCRA's prohibitions on soliciting non-Federal funds for Senator McCain's name or likeness to appear in this invitation as a featured guest or speaker since he approved, authorized, agreed, or consented to be featured, or named in, the invitation. *See supra*, p. 2."

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4. Approve the appropriate letter.

Commissioners Lenhard, Mason, Walther, and Weintraub voted  
affirmatively for the decision. Commissioner von Spakovsky dissented.

Attest:

April 10, 2007  
Date

Darlene Harris  
Darlene Harris  
Deputy Secretary of the Commission

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